

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Industrial Waste Utilization, Inc.
5601 State Street
Montclair, California 91763

ID No. CAD 980 585 293

Respondent.

Docket HWCA 2006 1219

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Industrial Waste, Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent transports and transfer hazardous waste at the following site: 5601 State Street, Montclair, California, 91763.

1.3. Inspection. The Department inspected the Site on June 1, April 20, and May 18, of 2006.

1.4. Authorization Status. The Department has authorized the Respondent to transport hazardous waste by the Hazardous Waste Transporter Registration # 816 which expires on May 31, 2007.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of

the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated Health and Safety Code section 25201 (a) and title 22, California Code of Regulations, section 66263.18, in that on or about January 2005, through June 2005, Respondent held hazardous waste for more than ten days during the normal course of transportation without a permit or grant of authorization from the Department.

2.1.2. Respondent violated Health and Safety Code section 25143.9 (c), and title 22, California Code of Regulations, section 66263.16 (b), in that or about May 18, 2006, Respondent failed to securely close a few containers during transportation.

2.1.3. Respondent violated Health and Safety Code section 25143.9 (c), 25163 (c) (1), and title 22, California Code of Regulations, section 66263.16 (a), in that on or about May 18, 2006, Respondent was found in possession of four containers picked up from their customers that failed to prevent potential releases of hazardous waste to the environment.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Effective immediately, Respondent shall not hold hazardous waste for more than ten days during the normal course of transportation.

3.1.2. Effective immediately, Respondent shall properly secure and close all containers during transportation and at the site.

3.1.3. Effective immediately, Respondent shall not accept containers for transport from customers that may result in any release of hazardous waste to the environment.

3.1.4. Respondent certified through its submittal dated August 7, 2006, that the violations alleged above have been corrected. Respondent shall operate hereafter in a manner that shall prevent recurrences of the violations cited herein.

3.1.5. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and

Safety Code section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the Department the total sum of EIGHTEEN THOUSAND AND FORTY DOLLARS (\$18,040). Respondent shall make the payment of this sum in two installments, as follows: NINE THOUSAND AND TWENTY DOLLARS (\$9,020.00) will be paid on or before July 29, 2007, and \$9,020.00 will be paid on or before October 29, 2007.

5.2. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Ramon Perez, Esq.
Office of Legal Counsel
Department of Toxic Substances Control
9174 Sky Park Court, Suite 150
San Diego, California 92123

And

Mukul Agarwal
Supervising Hazardous Substances Scientist
Enforcement and Emergency Response Program
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

5.3. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: 6/29/07

Original signed by Charles Templer
Respondent

Dated: 7/9/07

Original signed by Mukul Agarwal
Mukul K. Agarwal
Supervising Hazardous Substances Scientist
Enforcement and Emergency Response Program
Department of Toxic Substances Control